**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE M.N.KRISHNAN**

**MONDAY, THE 5TH NOVEMBER 2007 / 14TH KARTHIKA 1929**

**WP(C).No. 32739 of 2007(V)**
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**OS.491/2007 of I ADDL.M.C.,ERNAKULAM**
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**PETITIONER:**
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**CHINNAMMA PEYOLI, AGED 67 YEARS,**
**W/O. HUBERT PEYOLI, PEYOLI HOUSE, P.J.ANTONY ROAD,**
**MAMANGALAM, KOCHI-682 025.**

**BY ADV. SRI.BABU CHERUKARA.**

**RESPONDENTS:**
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1. **E.M.SHILIN, AGED ABOUT 39 YEARS,**
   **S/O. MR. MANIKKAN, EDATHIPARAMBIL HOUSE,**
   **POOVATHUSSERY P.O., ANNAMANADA (VIA),**
   **CHALAKUDY, PIN-680 741.**

2. **STATE OF KERALA, REPRESENTED BY**
   **THE SECRETARY TO FINANCE DEPARTMENT,**
   **SECRETARIAT, TRIVANDRUM.**

**BY GOVT. PLEADER SMT. R. BINDU FOR R2.**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 05/11/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**M.N.KRISHNAN, J**

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**W.P.(C) No.32739 OF 2007**

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**Dated this the 5th day of November 2007**

**JUDGMENT**

This writ petition is preferred against the order of the I Addl.Munsiff, Ernakulam in O.S.No.491 of 2007. It is submitted that the rent deed is only for a period of 11 months from 1.9.2002. Clause (1) of the rent deed reads as follows:(1) The rent deed is with effect from 1st September, 2002 for a period of 11 months. In clause (6), it is recited that the maximum period of the rent deed shall be for three years and in case the rent deed is not renewed immediately after the expiry of 36 months the lessee is liable to pay the lessor for succeeding months the enhanced rent by 125% of the monthly rent paid at the close of the 36th month and likewise enhancement of 25% on the close of every 12th month from then. I feel an interpretation of this document has to be properly made to understand the intention of the parties. A close reading of clause (6) would reveal that the intention of the parties was to have a renewal of the lease deed without enhancement of rent with consent for a period of 3 years and at the end of the 3 years there must be a renewal of the lease, whereby the rent has to be enhanced by 125%.

So, it is only describing the future course of action, clause (6) is incorporated. As far as this document is concerned, it evidences a lease only for a period of 11 months and it is written up in a stamp paper of Rs.50/- which is correct. Therefore, when Ext.P2 document is interpreted as a rent deed for a period of 11 months, then there need not be any payment of stamp duty and penalty on that document. If as suggested by the court below, it is a lease for 3 years then it becomes a compulsorily registerable document and it cannot be admitted in evidence except for the collateral purpose of proving possession.

2. Therefore, the order of the learned Munsiff to impound the document for stamp duty and penalty is against law and that has to be set aside. I feel that there is no point in sending back the case again for fresh consideration, since I have already found that Ext.P2 document only evidences a lease for a period of 11 months. Therefore, the order under challenge is set aside and the learned Munsiff is directed to proceed with the matter in accordance with law.

With the above observations, the writ petition is allowed.

**M.N.KRISHNAN, JUDGE**

**Cdp/-**